

Applicants provisionally elect Group I (claims 1-6) with traverse. The following reasons for traversing apply.

A restriction between patentably distinct inventions is only proper if two criteria are met. The "inventions must be independent . . . or distinct as claimed," and the search and examination of the entire application "must be a serious burden on the examiner." MPEP § 803(A) and (B). "If the search and examination of an entire application can be made without serious burden, the examiner must examine on the merits, even though it includes claims to independent or distinct inventions." MPEP § 803. A prima facie case of serious burden can be established if the Examiner "shows by appropriate explanation either separate classification, separate status in the art or a different field of search as defined in MPEP § 808.02." MPEP § 803.

The Examiner alleged that these groups are distinct and "have acquired a separate status in the art as shown by their different classification." Action at page 2. The Examiner also stated that the "search required for Group I is not required for Group II." Action at page 3.

The claims of Groups I are directed to, *inter alia*, libraries of cultured eucaryotic cells. The claim in Group II is directed to the use of the libraries of eucaryotic cells of Group I to generate a non-human transgenic animal. Thus, the searches for claims of Groups I and II overlap. Therefore, the Examiner has not established that examining the claims in Groups I and II would be a serious burden to him.

As it stands, therefore, the restriction requirement is improper and should be withdrawn. Applicants respectfully request that the Examiner examine the

claims of Groups I and II together in this application.

If there are any additional fees due in connection with the filing of this response, please charge the fees to Deposit Account No. 06-0916.

Respectfully submitted,
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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By: Bart W. Wise
Bart W. Wise
Reg. No. 49,029

LAW OFFICES
FINNEGAN, HENDERSON,
FARABOW, GARRETT,
& DUNNER, L.L.P.
1300 I STREET, N.W.
WASHINGTON, DC 20005
202-408-4000